

DRAFT RULE AMENDMENTS
DANGEROUS WASTE REGULATIONS – CHAPTER 173-303 WAC
MARCH 2004

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**SECTION 2**  
**Summaries and Draft Rule Language of Federal Rules**

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**Rule Title:** Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision C(92)39 Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations

**Reference:** 61 FR 16290-16316

**Promulgation Date:** April 12, 1996

**Effective Date:** July 11, 1996

**Summary:** This rule identifies the wastes, under RCRA, that are subject to a graduated system (green, amber, red) of procedural and substantive controls when they move across national borders within the Organization for Economic Cooperation and Development (OECD) for recovery. This rule seeks to make the transactions fully transparent and to prevent or minimize the possibility of such wastes being abandoned or otherwise illegally handled. These requirements will apply only to U.S. exporters and importers of RCRA hazardous wastes destined for recovery in OECD countries (except for Canada and Mexico; waste shipments to and from these countries will continue to move under the current bilateral agreements and regulations). Those U.S. exporters and importers transacting hazardous waste movements outside the scope of this rule will remain subject to EPA's current waste export and import regulations at 40 CFR Part 262, Subparts E and F. This rule does not increase the scope of wastes subject to U.S. export and import controls; it does, however, modify the procedural controls governing their export and import when shipped for recovery among OECD countries. This rule will assist in harmonizing the new OECD requirements, reducing confusion to U.S. importers and exporters and increasing the efficiency of the process.

**WAC 173-303-120 Recycled, reclaimed, and recovered wastes.**

(1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage

facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

(i) Industrial ethyl alcohol that is reclaimed (except that, unless provided otherwise in an international agreement as specified in 40 CFR 262.58: see export requirements at 40 CFR 261.6(3)(i)(A) and (B) that are incorporated by reference at WAC 173-303-230(1));

(6) Hazardous waste that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in 40 CFR 262.58(a)(1)) for purpose of recovery is subject to the requirements of 40 CFR part 262, subpart H, if it is subject to either the manifesting requirements at WAC 173-303-180 or to the universal waste management standards of WAC 173-303-573.

#### **WAC 173-303-170 Requirements for generators of dangerous waste**

(6) Any person who exports or imports hazardous waste subject to the manifesting requirements of WAC 173-303-180 or to the universal waste management standards of WAC 173-303-573, to or from the countries listed in 40 CFR 262.58(a)(1) for recovery must comply with 40 CFR 262 subpart H. 40 CFR 262 subpart H is incorporated by reference at WAC 173-303-230(1).

**WAC 173-303-220 Generator reporting.** The generator must submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator or any person who has obtained an EPA/state identification number pursuant to WAC 173-303-060 must submit an annual report to the department, on the Dangerous Waste Annual Report according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) In addition, any generator who stores, treats, or disposes of dangerous waste on-site must comply with the annual reporting requirements of WAC 173-303-390, Facility reporting. Reporting for exports of hazardous waste is required on the annual report form. A separate annual report requirement is set forth at 40 CFR 262.56, which is incorporated by reference at WAC 173-303-230(1).

#### **WAC 173-303-230 Special conditions.**

1) Exporting dangerous waste.

Federal export requirements, administered by EPA, are set forth at 40 CFR 262 Subpart E and Subpart H, and 40 CFR 261.6(a)(3)(i)(A) & (B), and specify the procedures applicable to generators and transporters of hazardous waste (as defined in WAC 173-303-040). These requirements are incorporated by reference. Copies of any forms or reports submitted to the

administrator of United States EPA as required by 40 CFR 262 Subpart E must also be submitted to the department.

**WAC 173-303-240 Requirements for transporters of dangerous waste**

(11) A transporter of hazardous waste subject to the manifesting requirements of WAC 173-303-180 or to the universal waste management standards of WAC 173-303-573, that is being imported from or exported to any of the countries listed in 40 CFR 262.58(a)(1) for purposes of recovery is subject to this section and to all other relevant requirements of 40 CFR subpart H part 262, including , but not limited to, 40 CFR 262.84 for tracking documents. 40 CFR subpart H is incorporated by reference at WAC 173-303-230(1).

**WAC 173-303-250 Dangerous waste acceptance, transport, and delivery.**

(1) A transporter must not accept dangerous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with WAC 173-303-180, Manifest.

(a) In the case of exports other than those subject to 40 CFR subpart H part 262 (which is incorporated by reference at WAC 173-303-230(1)), a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgement of Consent; and unless, in addition to a manifest signed in accordance with the provisions of WAC 173-303-180, such waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of 40 CFR subpart H part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.

**WAC 173-303-290 Required notices.** (1)(a) The facility owner or operator who is receiving dangerous waste from sources outside the United States must notify the appropriate regional office of the department annually, and in writing at least four weeks in advance of the date the first shipment of waste is expected to arrive at the facility. The notification must be in writing, signed by the importer and operator of the receiving facility, and include the following information:

- (i) Name, street address, mailing address, and telephone number of the exporter.
- (ii) Name, street address, mailing address, telephone number, and EPA/state ID number of the importer and receiving facility.
- (iii) A description of the dangerous waste and the EPA/state waste numbers, U.S. DOT proper shipping name, hazard class and ID number (UN\NA) for each hazardous waste as identified in 49 CFR Parts 171 through 177.
- (iv) The estimated frequency or rate at which such waste is to be imported and the period of time over which such waste is to be imported.
- (v) The estimated total quantity of the dangerous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22).
- (vi) A description of the manner by which the dangerous waste will be treated, stored, disposed of, or recycled by the receiving facility.

Upon request by the department, the importer and/or receiving facility must furnish to the department any additional information regarding the importation of dangerous waste.

(b) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H (incorporated by reference at WAC 173-303-230(1)) must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

**WAC 173-303-370 Manifest system.**

(4) Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility must comply with the generator requirements of WAC 173-303-170 through WAC 173-303-230.

(5) Within three working days of the receipt of a shipment subject to 40 CFR part 262, subpart H (which is incorporated by reference at WAC 173-303-230(1)), the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

**(6) Manifest discrepancies.**

**(7) Reasons for not accepting dangerous waste shipments.**

**WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery.** (1) Applicability and requirements.

(a) This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

(i) Notification requirements under WAC 173-303-060;

(ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store); and

(iii) For precious metals exported to or imported from designated OECD member countries for recovery, 40 CFR subpart H of part 262 (incorporated by reference at WAC 173-303-230(1)) and WAC 173-303-290(1)(b). For precious metals exported to or imported from non-OECD countries for recovery, 40 CFR subparts E (incorporated by reference at WAC 173-303-230(1)) and WAC 173-303-230(2)..

**WAC 173-303-573 Standards for universal waste management.**

(16) **Exports.** A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H which is incorporated by reference at WAC 173-303-230) must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230(1);

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR Subpart E of Part 262 which is incorporated by reference at WAC 173-303-230(1); and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(27) **Exports.** A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H which is incorporated by reference at WAC 173-303-230) must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230(1);

(34) **Exports.** A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H which is incorporated by reference at WAC 173-303-230) may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment.

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| <b>Rule Title:</b>        | <b>Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions</b> |
| <b>Reference:</b>         | 62 <u>FR</u> 32974-32980                                                                                                                  |
| <b>Promulgation Date:</b> | June 17, 1997                                                                                                                             |
| <b>Effective Date:</b>    | May 29, 1997                                                                                                                              |

**Summary:** This rule amends regulations to conform with the Federal appeals court ruling in *Dithiocarbamate Task Force v. EPA* (98 F.3d 1394 (D.C. Cir. 1996)) that invalidated, in part, Agency regulations listing certain carbamate wastes as hazardous. These regulations also pertain to certain hazardous waste management of carbamate industry wastes under RCRA. The vacated

hazardous waste listings and associated regulatory requirements are to be treated as if they were never in effect.

*No additional rule language changes are necessary.*

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**Rule Title:** Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production  
**Reference:** 62 FR 45568-45573  
**Promulgation Date:** August 28, 1997  
**Effective Date:** August 21, 1997

**Summary:** The emergency revision extends by one year the time that alternate carbamate treatment standards are in place. EPA is taking this action because analytical problems associated with the measurement of constituent levels in carbamate waste residues have not been resolved. This notice applies only to the carbamate wastes that remain listed as hazardous wastes. This is the second emergency rule related to the carbamate treatment standards. The first was promulgated on August 26, 1996 (61 FR 43924). That rule established temporary alternative treatment standards for carbamate wastes for a one-year period, because the Agency believed that one year was sufficient time for laboratory standards to be developed and for laboratories to take appropriate steps to conduct the necessary analysis for these wastes. This current rule further extends these alternate treatment standards, because not all of the laboratory standards have been developed. Additionally, there is confusion as to which analytical methods can be used to measure carbamate constituents.

*No rule language change is necessary.*

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**Rule Title:** Hazardous Waste Combustors; Revised Standards; Final Rule-Part 1: RCRA Comparable Fuel Exclusion; Permit Modifications for Hazardous Waste Combustion Units; Notification of Intent To Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions  
**Reference:** 63 FR 33782 - 33829  
**Promulgation Date:** June 19, 1998  
**Effective Date:** June 19, 1998

**Summary:** (EPA is excluding, from the regulatory definition of solid waste, fuels produced from a hazardous waste which are comparable to some currently used fossil fuels.\*) EPA is also

adding a new RCRA permit modification provision intended to make it easier for facilities to make changes to their existing RCRA permits. Facilities with certain hazardous waste combustion units can use this permit modification provision when adding air pollution control equipment, making other changes in equipment or making changes in operation needed to comply with upcoming air emission standards. EPA is also adding notification requirements for sources which intend to comply with this rule. (While this is a Clean Air Act provision, it is referenced by the RCRA regulations.) Finally, EPA is adding allowances for extensions to the compliance period to promote the installation of cost effective pollution prevention technologies.

*Ecology is proposing only the following rule language related to this Federal Register Notice.*

*\* The Syngas exclusion is not being proposed for adoption because it does not encourage recycling, product sustainability, or pollution prevention efforts. It provides an avenue for using products one time, generating a hazardous waste from that use, then burning the waste. This concept is in opposition to efforts for waste reduction, moving wastes up the waste management hierarchy, and Beyond Waste goals. Other reasons include the problematic concept of “use of process knowledge” to determine if waste meets the syngas specification limit/exclusion, and limitations on what is known about human health risks.*

#### **WAC 173-303-830(4)(j)**

(j) Combustion facility changes to meet 40 CFR part 63 MACT standards. (Note that 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075(5)(a). If you are subject to Part 63 you must get an air permit from Ecology or the local air authority.) The following procedures apply to hazardous waste combustion facility permit modifications requested under Appendix I of this section, section L.9.

(i) Facility owners or operators must have complied with the Notification of Intent to Comply requirements of 40 CFR 63.1210 that were in effect prior to May 14, 2001, (See 40 CFR Part 63 Revised as of July 1, 2000) in order to request a permit modification under this section.

(ii) If the Department does not approve or deny the request within 90 days of receiving it, the request will be deemed approved. The Director may extend this 90 day deadline one time for up to 30 days by notifying the facility owner or operator.

### **Appendix I Modifications**

#### **A. General Permit Provision**

8. Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility)..... \1\ 1

#### **L. Incinerators, Boilers and Industrial Furnaces**

9. Technology Changes Needed to meet Standards under 40 CFR part 63 (Subpart EEE National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), that are incorporated by reference at WAC 173-400-075(5)(a) provided the procedures of WAC 173-303-830(4)(j) are followed. \1\ 1

**WAC 173-303-805(7)(b)**

(viii) Changes necessary to comply with standards under 40 CFR part 63, Subpart EEE -- National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors, which are incorporated by reference at WAC 173-400-075(5)(a).

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**Rule Title:** NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule

**Reference:** 64 FR 52828-53077; 64 FR 63209-63213

**Promulgation Date:** September 30, 1999; November 19, 1999

**Effective Date:** September 30, 1999; November 19, 1999

**Summary:** This rule finalizes National Emissions Standards for Hazardous Air Pollutants (NESHAPS) for three source categories referred to collectively as hazardous waste combustors. Hazard waste combustors include hazardous waste burning incinerators, hazardous waste burning cement kilns, and hazardous waste burning lightweight aggregate kilns. These standards are promulgated under joint authority of the Clean Air Act (CAA) and the Resource Conservation and Recovery Act (RCRA). The rule establishes emission standards for chlorinated dioxins and furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas and particulate matter. The standards reflect the performance of Maximum Achievable Control Technologies (MACT). After submittal of the Notification of Compliance (NOC) under the CAA, and after modification of the RCRA permit at individual facilities, the RCRA national stack emission standards will no longer apply to hazardous waste combustors. By using both authorities, EPA consolidates regulatory control of hazardous waste combustion into a single set of regulations, eliminating conflicting or duplicative federal requirements while increasing protection of human health and the environment.

**WAC 173-303-040**

*Dioxins and furans (D/F)* means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

*TEQ* means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

**WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery.**

(1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. These regulations do not apply to gas recovered from dangerous waste



management activities when such gas is burned for energy recovery. Note: (This note is a reminder that all generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 CFR Part 266 Subpart H. In addition, the following are incorporated by reference for boilers and industrial furnaces that burn hazardous waste: 40 CFR 266.100(b)(1), 266.100(d)(1), 266.100(d)(3) intro, and 266.100(h))

**WAC 173-303-670(1)**

**(b) *Integration of the MACT standards.*** 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075(5)(a). Note that if you are subject to Part 63 you must get an air permit from Ecology or the local air authority.

(i) Except as provided by paragraphs (b)(ii), (b)(iii), and (b)(iv) of this subsection, the standards of this section no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE, by conducting a comprehensive performance test and submitting to the department a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of part 63, subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, dangerous waste permit conditions that were based on the standards of this section will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

(ii) The MACT standards do not replace the closure requirements of WAC 173-303-610 or the applicable requirements of WAC 173-303-280 through 400, -645, -610, -620, -691, -692, and -902.

(iii) The particulate matter standard of (4)(c)(ii) of this section remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14).

(iv) The following requirements remain in effect for startup, shutdown, and malfunction events if you elect to comply with 40 CFR 270.235(a)(1)(i) to minimize emissions of toxic compounds from these events:

(A) WAC 173-303-670(6)(a) requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

(B) WAC 173-303-670(6)(c) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

*Renumber the remainder of the subsections.*

**WAC 173-303-680 Miscellaneous units.** (1) Applicability. The requirements of this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units, except as WAC 173-303-600 provides otherwise.

(2) Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of dangerous waste or dangerous constituents from the unit. Permit terms and provisions must include those requirements in WAC 173-303-630 through 173-303-670, 40 CFR Subparts AA through CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692, WAC 173-303-800 through 173-303-806, part 63 subpart EEE (which is incorporated by reference at WAC 173-400-075(5)(a)), and 40 CFR Part 146 that are appropriate for the miscellaneous units being permitted. (Note that if you are subject to Part 63 you must get an air permit from Ecology or the local air authority.) Protection of human health and the environment includes, but is not limited to:

**WAC 173-303-806(4)(f)**

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) and (4)(f)(v) of this subsection provide otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(4)(f)(v) When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE, (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE), the requirements of this subsection do not apply, except those provisions the department determines are necessary to ensure compliance with WAC 173-303-670(6)(a) and WAC 173-303-670(6)(c) if you elect to comply with 40 CFR 270.235(a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the department may apply the provisions of this subsection, on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and WAC 173-303-815(2)(b)(ii). Note that 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075(5)(a). If you are subject to 40 CFR Part 63 you must get an air permit from Ecology or the local air authority.

**WAC 173-303-806(4)(n)**

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE, (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of part 63, subpart EEE), the requirements of this sub-section do not apply, except

those provisions the Director determines are necessary to ensure compliance with 40 CFR 266.102(e)(1) and 266.102(e)(2)(iii) if you elect to comply with 40 CFR 270.235(a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this subsection, on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and WAC 173-303-815(2)(b)(ii).

#### **WAC 173-303-807**

When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE, (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of part 63, subpart EEE), the requirements of this section do not apply, except those provisions the department determines are necessary to ensure compliance with WAC 173-303-670(6)(a) and WAC 173-303-670(6)(c) if you elect to comply with 40 CFR 270.235(a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the department may apply the provisions of this section on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and WAC 173-303-815(2)(b)(ii). 40 CFR part 63 subpart EEE is incorporated by reference at WAC 173-400-075(5)(a). Note that if you are subject to Part 63 you must get an air permit from Ecology or the local air authority.

#### **NEW SECTION**

##### **WAC 173-303-811 Permits for boilers and industrial furnaces burning hazardous Waste.**

The introductory paragraph of 40 CFR 270.66 is incorporated by reference. It applies to an owner or operator of a cement or lightweight aggregate kiln that demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE.

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| <b>Rule Title:</b>        | <b>Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters</b> |
| <b>Reference:</b>         | 64 FR 56469-56472                                                                                                                                                                                                                                                                                          |
| <b>Promulgation Date:</b> | October 20, 1999                                                                                                                                                                                                                                                                                           |
| <b>Effective Date:</b>    | October 20, 1999                                                                                                                                                                                                                                                                                           |

**Summary:** This rule corrects two minor typographical errors and one omission in the May 11, 1999 technical amendment (Revision Checklist 179; 64 FR 25408) to the Phase IV Land Disposal Restrictions (LDR). This rule also corrects three errors in the May 26, 1998 LDR Phase IV final rule (63 FR 28556).

Note: The listings of K064, K065, K066, K090, and K091 were initially added to the Federal code by the September 12, 1988 final rule addressed by Revision Checklist 53 (53 FR 35412). However, the listings were remanded by the U.S. Court of Appeals for the D.C. Circuit in American Mining Congress v. EPA, 907 F.2d 1179 (D.C. Cir. 1990).

**WAC 173-303-9904 Dangerous waste sources list.** The following Hazard Codes are used to indicate the basis EPA used for listing the classes or types of wastes listed in this section:

### **Specific Sources**

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| <b>Rule Title:</b>        | <b>180-Day Accumulation Time Under RCRA for Waste Water Treatment Sludges From the Metal Finishing Industry; Final Rule</b> |
| <b>Reference:</b>         | 65 <u>FR</u> 12378-12398                                                                                                    |
| <b>Promulgation Date:</b> | March 8, 2000                                                                                                               |
| <b>Effective Date:</b>    | March 8, 2000                                                                                                               |

**Summary:** This rule promulgates regulations that allow large quantity generators of F006 wastes up to 180 days (or 270 days in certain circumstances) to accumulate F006 waste on-site in tanks, containers, or containment buildings without a hazardous waste storage permit or interim status, provided that these generators (1) have implemented pollution prevention practices, (2) recycle the F006 waste through metals recovery, (3) accumulate no more than 20,000 kg of F006 waste

at any one time, and (4) comply with applicable management standards. The same management standards that apply to 90-day on-site accumulation of hazardous waste apply to the new 180-day (or 270-day, as applicable) on-site accumulation of F006 waste. The extension of the accumulation time addresses economic barriers to the recycling of F006 waste through metals recovery. This change will provide large quantity generators of F006 waste an incentive to choose recycling instead of treatment and land disposal as their final waste management option. Because this rule is intended to increase recycling, EPA strongly encourages States to adopt regulations that allow the additional accumulation time.

#### **WAC 173-303-200**

(4)(a) A generator who generates 2200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

(i) The generator has implemented pollution prevention practices that reduce the amount of any dangerous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(ii) The F006 waste is legitimately recycled through metals recovery;

(iii) No more than 44,000 pounds of F006 waste is accumulated on-site at any one time; and

(iv) The F006 waste is managed in accordance with the following:

(A) The F006 waste is placed:

(I) In containers and the generator complies with the applicable requirements of WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a); and/or

(II) In tanks and the generator complies with the applicable requirements of 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a) and 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a); and/or

(III) In containment buildings and the generator complies with subpart DD of 40 CFR part 265 which is incorporated by reference at WAC 173-303-400(3), and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

- A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management

practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

- Documentation that the unit is emptied at least once every 180 days.

(B) In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for 265.111 and 265.114 which are incorporated by reference at WAC 173-303-400(3).

(C) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(D) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Dangerous Waste;" and

(E) The generator complies with the requirements for owners or operators in WAC 173-303-330 WAC 173-303-340, and WAC 173-303-350, and with 40 CFR 268.7(a)(5) which is incorporate by reference at WAC 173-303-140(2)(a).

(h) A generator who generates 2200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of paragraphs (a)(i) through (a)(iv) of this section.

(i) A generator accumulating F006 in accordance with paragraphs (4) and (5) of this section who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 44,000 pounds of F006 waste on-site is an operator of a storage facility and is subject to the facility and permit requirements of this chapter unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 44,000 pound accumulation limit. Such extensions and exceptions may be granted by the department if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 44,000 pounds of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the department on a case-by-case basis.

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**Rule Title:** Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments  
**Reference:** 64 FR 36365-36367  
**Promulgation Date:** June 8, 2000  
**Effective Date:** June 8, 2000

**Summary:** This rule corrects an error made in the August 6, 1998 rule (63 FR 42110) which listed four wastes from the petroleum refining industry as hazardous. The amending language in the August 6, 1998 rule included a typographical error that made the intent of the amendment unclear. The June 8, 2000 final rule addressed by this checklist revises the listing description for hazardous waste code F037 in 40 CFR 261.31(a) to reflect the original intent of the August 6, 1998 amendment.

*No rule language changes are necessary.*

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**Rule Title:** NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections  
**Reference:** 65 FR 42292-42302; 66 FR 24270-24272; 66 FR 35087-35107  
**Promulgation Date:** July 10, 2000; May 14, 2001; July 3, 2001  
**Effective Date:** July 10, 2000; May 14, 2001; October 16, 2001

**Summary:** This rule adds gas turbines to the list of approved burners for comparable/syngas fuel burners under 40 CFR 261.38(c)(ii)(2). Gas turbines were inadvertently excluded from the list of approved fuel burners in the June 19, 1998 National Emissions Standards for Hazardous Air Pollutants (NESHAPS) rulemaking (63 FR 33782). This rule also corrects a typographical error made in the June 19, 1998 rule.

*The only rule changes being proposed with this rule are to sections -830 and -670 and they are reflected with the September 30, 1999 NESHAPS rule above. The syngas changes are not included since the exclusion itself is not included as a draft rule.*

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**Rule Title:** Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities  
**Reference:** 65 FR 67068-67133

**Promulgation Date:** November 8, 2000  
**Effective Date:** May 7, 2001

**Summary:** (1) This rule adds two wastes (K174 and K175) generated by the chlorinated aliphatics industry to the list of hazardous wastes at 40 CFR 261.32. The new wastes will be subjected to stringent management and treatment standards under RCRA, and to emergency notification requirements. EPA is allowing a contingent-management listing approach for one of these new wastes. Under this approach, the waste will not be a listed hazardous waste if sent to a specific type of management facility. (2) In this rule, EPA also finalizes determinations not to list as hazardous four wastes generated by the chlorinated aliphatics industry.

#### **WAC 173-303-9904**

##### **Specific Sources**

##### **Organic Chemicals:**

**K174.** Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions:

- i) they are disposed of in a hazardous waste or non-hazardous landfill licensed or permitted by the state or federal government;
- (ii) they are not otherwise placed on the land prior to final disposal; and
- (iii) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of the Hazardous Waste Management Act or Dangerous Waste Regulations must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, etc.) that the terms of the exclusion were met. (T)

**K175.** Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. (T)

#### **WAC 173-303-9905 Dangerous Waste Constituents**

|                                   |                                            |
|-----------------------------------|--------------------------------------------|
| Octachlorodibenzo-p-dioxin (OCDD) | 1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin |
| Octachlorodibenzofuran (OCDF)     | 1,2,3,4,6,7,8,9-Octachlorodibenzofuran     |



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**Rule Title:** Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules  
**Checklist Title:** A. Mixture and Derived-From Rules Revisions  
B. Land Disposal Restrictions Correction  
**Reference:** 66 FR 27266-27297  
**Promulgation Date:** May 16, 2001  
**Effective Date:** August 14, 2001

**Summary:** This rule finalizes the retention of the mixture rule and the derived-from rule with two revisions. The first revision expands the exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, corrosivity and/or reactivity characteristic. The second revision is a new conditional exemption from the mixture and derived-from rules for mixed wastes.

*Note that the federal provision that exempts a mixture of a solid waste and a hazardous waste is not being proposed. This is for consistency with other dangerous waste regulatory requirements that prohibit mixing, and thus dilution of dangerous wastes. The federal rule language for “mixed wastes” is also not being proposed since the low level mixed waste exclusion is not included as part of the draft rule amendments.*

**WAC 173-303-070(2)(a)**

(2)(a) Except at provided at WAC 173-303-070(2)(c), once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

**WAC 173-303-070(2)(c)**

(c)(i) A hazardous waste that is listed in WAC 173-303-081 or 173-303-082 solely because it exhibits one or more characteristics of ignitability as defined under WAC 173-303-090(5), corrosivity as defined under WAC 173-303-090(6), or reactivity as defined under WAC 173-303-090(7) is not a hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in WAC 173-303-090 or any criteria identified in WAC 173-303-100.

(ii) The exclusion described in paragraph (2)(c)(i) of this section also pertains to:

(A) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in WAC 173-303-081 or 173-303-082 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under WAC 173-303-070(2)(a) and (b).

(B) Wastes excluded under this section are subject to 40 CFR part 268, which is incorporated by reference (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

**WAC 173-303-081(3)**

(3) Dangerous waste numbers and mixtures. A waste which has been designated as a discarded chemical product dangerous waste must be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals which caused the waste to be designated. If a person mixes a solid waste with a waste that would be designated as a discarded chemical product under this section, then the entire mixture must be designated. The mixture designation is the same as the designation for the discarded chemical product which was mixed with the solid waste unless it has been excluded under WAC 173-303-070(2)(c) or (d). For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004, DW designation, QEL of 2.2 lbs.) and 22 lbs. (10 kg) of a solid waste, would be designated DW, and identified as acute hazardous waste. The mixture would have the dangerous waste number P004.

**WAC 173-303-082(3)**

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture is designated as a dangerous waste source unless it has been excluded under WAC 173-303-070(2)(c) or (d). The mixture has the same designation (DW), and the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.

*The following provision for hazardous debris is being moved for consistency:*

**WAC 173-303-070(2)****WAC 173-303-071(3)**

**(qq)(c)** Debris. Provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

- (i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45, which is incorporated by reference at WAC 173-303-140(2)(a); persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or
- (ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

This rule also corrects an error made by the June 8, 2000 rule (65 FR 36365). The June 8, 2000 rule inadvertently removed the entry for hazardous waste code U048 from 40 CFR part 268, Appendix VII. Revision Checklist 192 B reinserts the entry for U048. (192B)

*No rule language change is necessary.*

**Rule Title:** Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections  
**Reference:** 66 FR 34374-34376  
**Promulgation Date:** June 28, 2001  
**Effective Date:** June 28, 2001

**Summary:** This rule updates the official mailing address for EPA, due to the relocation of the majority of its Headquarter offices to downtown Washington, DC.

**WAC 173-303-110 Sampling and testing methods**

(3)(a) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846* (Third Edition (November 1986) as amended by Updates I (dated July 1992), II (dated September 1994), IIA (dated August 1993), IIB (dated January 1995), III (dated December 1996), and IIIA (dated April 1998)). The Third Edition of SW-846 and its Updates (document number 955-001-00000-1) are available from the Superintendent of Documents. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847;

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**Rule Title:** Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities  
**Reference:** 66 FR 58258-58300; 67 FR 17119-17120  
**Promulgation Date:** November 20, 2001; April 9, 2002  
**Effective Date:** May 20, 2002

**Summary:** EPA has added to its list of hazardous wastes, three inorganic chemical manufacturing wastes. This listing subjects the wastes to RCRA Subtitle C management and treatment standards and CERCLA emergency notification requirements for releases to the environment. Additionally, the toxic constituents found in the newly listed wastes have been added to the list of constituents which forms the basis for classifying wastes as hazardous and establishes treatments standards for the wastes. This rule also subjects the three inorganic chemical manufacturing wastes to the universal treatments standards under the LDRs program.

With this rule, EPA has also made final determinations not to list the remainder of wastes generated by inorganic chemical manufacturing processes which were described in the proposed regulations. Finally, the Agency is deferring final action on all elements of the proposed rule related to manganese.

**WAC 173-303-071(3) Excluded categories of waste**

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

- (i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, and K178 if these wastes had been generated after the effective date of the listing ;
- (ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;
- (iii) The leachate or gas condensate does not exhibit any characteristic or criteria of dangerous waste nor is derived from any other listed hazardous waste;
- (iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.
- (v) As of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph (3)(kk)(v) after the emergency ends.

**WAC 173-303-9904 Dangerous waste sources list.** The following Hazard Codes are used to indicate the basis EPA used for listing the classes or types of wastes listed in this section:

**Specific Sources**

**Inorganic chemicals**

K176..Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide). (E)

K177..Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide). (T)

K178..Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process. (T)

**Rule Title:** Amendments to the Corrective Action Management Unit Rule  
**Reference:** 67 FR 2962-3029  
**Promulgation Date:** January 22, 2002  
**Effective Date:** April 22, 2002

**Summary:** EPA is amending the 1993 Corrective Action Management Unit (CAMU) rule to facilitate treatment, storage and disposal of hazardous wastes managed for implementing cleanup, and to remove cleanup disincentives that RCRA can create. The 1993 CAMU rule is being revised as follows:

- To govern the types of wastes eligible for placement in CAMUs, a definition for “CAMU-eligible waste” is created, which is distinct from the 40 CFR 260.10 definition of “remediation waste”;
- More detailed minimum design and operating standards for CAMUs in which waste remains after closure, with opportunities for Regional Administrator-approved alternate designs;
- Treatment requirements for wastes placed in CAMUs, including minimum treatment standards, with opportunities for adjustment;
- More specific CAMU application information requirements including public notice and opportunity for comment, before final CAMU determination;
- Requirements for CAMUs used only for treatment and storage; and
- “Grandfathering” of certain types of existing CAMUs and allowing them to operate under the 1993 rule.

With this rule, EPA has also:

- Amended the regulations for staging piles to allow for mixing, blending and other similar physical operations that prepare wastes for subsequent management or treatment;
- Added a new provision that allows off-site placement of hazardous CAMU-eligible waste in hazardous waste landfills, if treated to meet CAMU treatment standards;
- Granted interim authorization for the new CAMU amendments, to states currently authorized for the 1993 CAMU rule; and
- Expedited state authorization for the CAMU rule, for states that have authorization for RCRA corrective action but not the 1993 CAMU rule.

#### **WAC 173-303-040**

"Remediation waste" means all solid and dangerous waste, and all media (including ground water, surface water, soils, and sediments) and debris, that are managed for implementing cleanup.

*See Section 3 for draft rule language.*

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**Rule Title:** NESHAP: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule)  
**Reference:** 67 FR 6792-6818  
**Promulgation Date:** February 13, 2002  
**Effective Date:** February 13, 2002

**Summary:** On September 30, 1999, as amended November 19, 1999 (64 FR 52828 & 64 FR 63209), the Agency promulgated the NESHAPS rule to control emissions of hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns that burn hazardous wastes. Portions of the rule were challenged and subsequently vacated by the U.S. Court of Appeals for the District of Columbia Circuit on July 24, 2001. On October 19, 2001, EPA and all petitioners jointly moved the Court to stay the issuance of its mandate for four months to allow EPA time to develop interim standards. The motion also included plans for EPA to issue final standards by June 14, 2005 and to promulgate by February 14, 2002, a rule with amended interim emission standards and compliance and implementation amendments. The Court granted EPA's request and stayed issuance of its mandate until February 14, 2002.

In general, this rule amends the September 1999 NESHAPS rule to accommodate the parties' joint motion. This rule replaces the vacated emission standards temporarily until final standards are promulgated (by June 14, 2005). EPA believes this Interim Standards Rule best fulfills the statutory requirement to have national emission standards in place by a specified time, while avoiding unnecessary disruption and burden to regulated industry, and affected state and federal administrative agencies.

*Some of the rule changes from this Federal Register Notice amend provisions from the September 1999 NESHAP rule and are included with that rule in sections -670 and -807.*

## **NEW SECTION**

### **WAC 173-303-841**

40 CFR 270.235, Options for incinerators and cement and lightweight aggregate kilns to minimize emissions from startup, shutdown, and malfunction events, is incorporated by reference. This is subpart I, Integration with Maximum Achievable Control Technology (MACT) Standards.

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**Rule Title:** NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule

**Reference:** 67 FR 6968-6996

**Promulgation Date:** February 14, 2002

**Effective Date:** February 14, 2002

**Summary:** This rule is promulgated to correct several technical errors which were made on September 30, 1999 (NESHAPs rule) when EPA established standards for hazardous waste-burning cement kilns, lightweight aggregate kilns, and incinerators (64 FR 52828, as amended 64 FR 63209).

*Note that most of the changes from this rule are to 40 CFR Part 266.100 (BIF) which is not part of the state regulations. The only change being made from this rule is to section -830 and is reflected with the September 1999 NESHAP rule language.*

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**Rule Title:** Zinc Fertilizers Made From Recycled Hazardous Secondary Materials

**Checklist Title:** Zinc Fertilizer Rule

**Reference:** 67 FR 48393 - 48415

**Promulgation Date:** July 24, 2002

**Effective Date:** July 24, 2002 for all revisions except for the amendment to 40 CFR 266.20(b); the effective date for this provision is January 24, 2003

**Summary:** This final rule establishes a more consistent regulatory framework for the practice of making zinc fertilizer products from recycled hazardous secondary materials. More specifically, it establishes conditions for excluding hazardous secondary materials used to make zinc fertilizers from the regulatory definition of solid waste. The rule also establishes new product specifications for contaminants in zinc fertilizers made from those secondary materials.

#### **WAC 173-303-071(3)(oo) and (pp)**

(oo) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions specified are satisfied:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in WAC 173-303-016(5)(c)(ii).

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

(A) Submit a one-time notice to the department that contains the name, address and EPA/State ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subsection [(3)(oo)].

(B) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and must have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material, and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:

(I) have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation; and

(II) provide for effective drainage and removal of leaks, spills and accumulated precipitation; and

(III) prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this subsection [(3)(oo)].

(D) Maintain at the generator's or intermediate handlers's facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment these records must at a minimum contain the following information:

(I) Name of the transporter and date of the shipment;

(II) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and

(III) Type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:

(A) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in paragraph (oo)(ii)(B) of this subsection.



(B) Submit a one-time notification to the department that, at a minimum, specifies the name, address and EPA/State ID number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subsection [(3)(oo)].

(C) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

(D) Submit to the department an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process(s) from which they were generated.

(iv) Nothing in this subsection preempts, overrides or otherwise negates the provision in WAC 173-303-070(1)-(5), which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(v) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in paragraph (oo)(ii)(A) of this subsection, and that afterward will be used only to store hazardous secondary materials excluded under this paragraph, are not subject to the closure requirements of WAC 173-303-400 and 600 through -695.

(pp) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under subsection (3)(oo) of this section, provided that:

(i) The fertilizers meet the following contaminant limits:

(A) For metal contaminants:

|              | Maximum<br>Allowable<br>Total<br>Concentration<br>Constituent in<br>Fertilizer,<br>per Unit (1%)<br>of Zinc (ppm) |
|--------------|-------------------------------------------------------------------------------------------------------------------|
| Arsenic..... | 0.3                                                                                                               |
| Cadmium..... | 1.4                                                                                                               |

|               |     |
|---------------|-----|
| Chromium..... | 0.6 |
| Lead.....     | 2.8 |
| Mercury.....  | 0.3 |

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(B) For dioxin contaminants the fertilizer must contain no more than eight (8) parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of paragraph (pp)(ii) of this subsection. Such records must at a minimum include:

(A) The dates and times product samples were taken, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) taking the samples;

(C) A description of the methods and equipment used to take the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A description of the analytical methods used, including any cleanup and sample preparation methods; and

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection [(3)(pp)].

**WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal.** (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the

recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 CFR Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain.

(ii) Antiskid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.

(iii) Fertilizers that contain recyclable materials are not subject to regulation provided that:

(A) They are zinc fertilizers excluded according to WAC 173-303-071(3)(pp); or

(B) They meet the applicable treatment standards in subpart D of Part 268, which is incorporated by reference at WAC 173-303-140(2)(a) for each hazardous waste that they contain.

(Note: Fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in WAC 173-303-140(2)(a) that apply to the characteristics of dangerous waste that the state-only waste exhibits.)

(iv) The prohibition levels for fertilizer using K061, in mg/l, are as follows: Arsenic, 5.0; Barium, 100.0; Cadmium, 1.0; Chromium (Total), 5.0; Lead, 5.0; Mercury, 0.20; Selenium, 5.7; and Silver, 5.0.

(v) The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (v)(A) or (B) of this subsection:

(A) Initial Criteria.

(I) The applicable Land Disposal Restriction (LDR) Certification as described in 40 CFR Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and  
(II) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary Criteria.

(I) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and

(II) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and

(III) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and

(IV) Other information as required by the department.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

- (a) For generators, WAC 173-303-170 through 173-303-230;
- (b) For transporters, WAC 173-303-240 through 173-303-270; and
- (c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 CFR Part 268 (incorporated by reference in WAC 173-303-140 (2)(a)) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).
- (d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

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|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Rule Title:</b>        | <b>Land Disposal Restrictions: National Treatment Variance To Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver- Containing Batteries</b> |
| <b>Reference:</b>         | 67 <u>FR</u> 62618 – 62624                                                                                                                                                                  |
| <b>Promulgation Date:</b> | October 7, 2002                                                                                                                                                                             |
| <b>Effective Date:</b>    | November 21, 2002                                                                                                                                                                           |

**SUMMARY:** EPA is taking direct final action to grant a national treatability variance from the Land Disposal Restrictions (LDR) treatment standards for radioactively contaminated cadmium-, mercury-, and silver-containing batteries by designating new treatment subcategories for these wastes in response to a rulemaking petition from the Department of Energy. The current treatment standards of thermal recovery for cadmium batteries and of roasting and retorting for mercury batteries are technically inappropriate, because any recovered metals would likely contain residual radioactive contamination and not be usable. The current numerical treatment standard for silver batteries is also inappropriate because of the potential increase in radiation exposure to workers associated with manually segregating silver-containing batteries for the purpose of treatment. Macroencapsulation in accordance with the provisions for treatment standards for hazardous debris is designated as the required treatment prior to land disposal for the new waste subcategories. This will allow safe disposal of these radioactively contaminated materials.

*This rule will be incorporated by reference at WAC 173-303-140(2)(a) with other land disposal restriction requirements.*

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**Rule Title:** NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Corrections  
**Reference:** 67 FR 77687 - 77692  
**Promulgation Date:** December 19, 2002  
**Effective Date:** December 19, 2002

**Summary:** On September 30, 1999, EPA promulgated regulations to control emissions of hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns that burn hazardous wastes. EPA subsequently promulgated three rules that revised these regulations: a Direct Final Rule published on July 3, 2001, an Interim Standards Rule published on February 13, 2002, and a Final Amendments Rule published on February 14, 2002. In today's action, we are correcting technical errors in those regulations.

*These changes are incorporated into WAC 173-303-806(4)(f)(v) -807, and 811 with other changes from the September 1999 NESHAPS rule.*

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#### **Universal Waste for Mercury-Containing Equipment**

Proposed by EPA on June 12, 2002 – Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes and Mercury-Containing Equipment 67 FR 40508-40528- This rule is expected to be finalized and promulgated by EPA in May 2004.

*See Section 4 for draft rule language*

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#### **WASTE MINIMIZATION**

**Rule Title:** HSWA Codification Rule  
**Reference:** 50 FR 28702-28755 July 15, 1985

**And**

**Rule Title:** Biennial Report Correction  
**Reference:** 51 FR 28556 August 8, 1986

**380(1)(p)**

A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that they generate to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment.

**810(11)(c)**

The permittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by WAC 173-303-380(1)(p), and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time. The permittee must maintain records from all ground-water monitoring wells and associated ground-water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.

**390(2) (g)** For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

**(h)** For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984.

**(i)** The certification signed in accordance with the requirements of WAC 173-303-810(12).

**(j)** Generators referred to this section by WAC 173-303-220 do not need to comply with (2)(g) and (h) above.

Or

-220(1)(b)...except for WAC 173-303-390(2)(g) and (h)

**Reason for amendment:** This is older federal rule language that the state has not previously adopted. Although there are federal waste minimization requirements for both generators and facility owners and operators, Ecology intends to propose only the facility requirements at this time. Including this rule language in the state regulation will result in more efficient work on permits in the future. Rather than dual permits being issued by both EPA and Ecology, Ecology will be able to issue the entire permit. Adoption of these federal requirements is not intended to conflict with existing pollution prevention planning requirements.

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